

# Notice of Allowability

Application No.

10/667,568

Examiner

Jason L. Savage

Applicant(s)

WIERES ET AL.

Art Unit

1775

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 12-9-04.
2. ☒ The allowed claim(s) is/are 1-12 and 15-41.
3. ☒ The drawings filed on 22 September 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☒ Certified copies of the priority documents have been received in Application No. 09/917,555.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

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1. Claims 1-12 and 15-41 are allowed.
2. The following is an examiner's statement of reasons for allowance:

Although the instant claims are similar to the co-inventive Patent of Wieres et al. (US 6,598,782), the claims are not considered a case for obviousness double patenting.

The claimed invention in the instant Application differs from the claims in Wieres in that the Wieres claims requires that a second brazing medium particle fraction be applied whereas the present invention only applies a single particle fraction (Wieres - claim 1). Furthermore, Wieres claims that there is a Gaussian distribution in percent for a respective portion of the diameter disposed substantially centrally between the maximum and the minimum particle diameters disclosed (Wieres - claim 3). Wieres discloses that this two-step method of applying the particle fraction provides the unexpected results over a single brazing step in that a better durability was obtained as well as a better control of the amount of the brazing medium being introduced (col. 5, ln. 50-67).

Given these differences, the Wieres Patent is not considered a case for obvious double patenting since there is not any motivation in the reference to employ a braze using a single particle fraction given the improvement in properties of the two-step braze method claimed by Wieres and further given that the Wieres claims require a Gaussian distribution of the particle diameters.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should

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preferably accompany the issue fee. Such submissions should be clearly labeled

"Comments on Statement of Reasons for Allowance."

4. Any inquiry to this communication or earlier communications from the Examiner should be directed to Jason Savage, whose telephone number is (571)272-1542. The Examiner can normally be reached Monday to Friday from 6:30 AM to 4:00 PM.

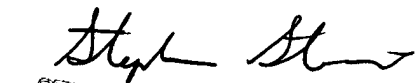
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Deborah Jones, can be reached on (571)272-1535.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jason Savage

2-21-05



**STEPHEN STEIN**  
**PRIMARY EXAMINER**